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7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

8 UNITED STATES OF AMERICA,

Case No.: 2:20-mj-318-DJA

9 Plaintiff,

10 v.
Stipulation to Extend Deadlines to
Conduct Preliminary Hearing and
File Indictment (First Request)

11 JOSUE GARCIA-RODRIGUEZ,
aka JUAN PABLO MUNGIA-GARCIA,
12 aka JOSUE GARCIA CHAPO,

13 Defendant.

14

15 IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A.
16 Trutanich, United States Attorney, and Kimberly M. Frayn, Assistant United States
17 Attorney, counsel for the United States of America, and Nisha Brooks-Whittington,
18 Assistant Federal Public Defender, counsel for Defendant JOSUE GARCIA-
19 RODRIGUEZ, also known as Juan Pablo Mungia-Garcia, and Josue Garcia Chapo
20 (“Garcia” or “defendant”), that the Court schedule the preliminary hearing in this case for
21 no earlier than 90 days from the date of the filing of this stipulation. This request requires
22 that the Court extend two deadlines: (1) that a preliminary hearing be conducted within 14
23 days of a detained defendant’s initial appearance, *see* Fed. R. Crim. P. 5.1(c); and (2) that an

1 information or indictment be filed within 30 days of a defendant's arrest, *see* 18 U.S.C.
2 § 3161(b).

3 This stipulation is entered into for the following reasons:

4 1. The United States Attorney's Office has developed an early disposition
5 program for immigration cases, authorized by the Attorney General pursuant to the
6 PROTECT ACT of 2003, Pub. L. 108-21.

7 2. The early disposition program for immigration cases is designed to: (1) reduce
8 the number of hearings required in order to dispose of a criminal case; (2) avoid having
9 more cases added to the court's trial calendar, while still discharging the government's duty
10 to prosecute federal crimes; (3) reduce the amount of time between complaint and
11 sentencing; and (4) avoid adding significant time to the grand jury calendar to seek
12 indictments in immigration cases, which in turn reduces court costs.

13 3. The government has made a plea offer in this case that requires defendant to
14 waive specific rights and hearings in exchange for "fast-track" downward departure under
15 USSG § 5K3.1. This offer will be withdrawn if it is not timely accepted before this matter is
16 indicted and before a preliminary hearing is held.

17 4. Under Federal Rule of Criminal Procedure 5.1(c), the Court "must hold the
18 preliminary hearing within a reasonable time, but no later than 14 days after the initial
19 appearance if the defendant is in custody . . ."

20 5. However, under Rule 5.1(d), "[w]ith the defendant's consent and upon a
21 showing of good cause—taking into account the public interest in the prompt disposition of
22 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more
23 times . . ."

24

1 6. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny
2 information or indictment charging an individual with the commission of an offense shall be
3 filed within thirty days from the date on which such individual was arrested or served with a
4 summons in connection with such charges.”

5 7. Defendant needs additional time to review the discovery and investigate
6 potential defenses to make an informed decision as to how to proceed, including whether to
7 accept the fast-track plea agreement.

8 8. Accordingly, the parties jointly request that the Court schedule the
9 preliminary hearing in this case no sooner than 90 days from today’s date.

10 9. Defendant is in custody and agrees to the extension of the 14-day deadline
11 imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C.
12 § 3161(b), provided that the information or indictment is filed on or before the date ordered
13 pursuant to this stipulation .

14 10. The parties agree to the extension of that deadline.

15 11. This extension supports the public interest in the prompt disposition of
16 criminal cases by permitting defendant to consider entering into a plea agreement under the
17 United States Attorney’s Office’s fast-track program for § 1326 defendants.

18 12. Accordingly, the additional time requested by this stipulation is allowed
19 under Federal Rule of Criminal Procedure 5.1(d).

20 13. In addition, the parties stipulate and agree that the time between today and
21 the scheduled preliminary hearing is excludable in computing the time within which the
22 defendant must be indicted and the trial herein must commence pursuant to the Speedy
23 Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C.
24 § 3161(h)(7)(B)(i) and (iv).

14. This is the first request for an extension of the deadlines by which to conduct the preliminary hearing and to file an indictment.

DATED this 29th day of April, 2020.

Respectfully submitted,

NICHOLAS A. TRUTANICH
United States Attorney

/s/ Nisha Brooks-Whittington
NISHA BROOKS_WHITTINGTON
Assistant Federal Public Defender
Counsel for Defendant
Josue Garcia-Rodriguez

/s/ Kimberly M. Frayn
KIMBERLY M. FRAYN
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Case No.: 2:20-mj-318-DJA

Plaintiff,

V.

JOSUE GARCIA-RODRIGUEZ,
aka JUAN PABLO MUNGIA-GARCIA,
aka JOSUE GARCIA CHAPO,

**Order on Stipulation to
Extend Deadlines to Conduct
Preliminary Hearing and
File Indictment**

Defendant.

Based on the stipulation of counsel, good cause appearing, and the best interest of justice being served; the time requested by this stipulation being excludable in computing the time within which the defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv);

IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled on May 12, 2020 at the hour of 4:00 p.m., be vacated and continued to August 3, 2020, at the hour of 4:00 p.m.

DATED: April 29, 2020

[Signature]
UNITED STATES MAGISTRATE

UNITED STATES MAGISTRATE JUDGE